

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Amendment of Procedural Rules Governing	)	EB Docket No. 17-245
Formal Complaint Proceedings Delegated to	)	
the Enforcement Bureau	)	
	)	

**REPLY COMMENTS OF CROWN CASTLE INTERNATIONAL CORP.**

Crown Castle International Corporation and its subsidiaries (“Crown Castle”) submit these reply comments in response to the Federal Communications Commission’s (“FCC” or “Commission”) Notice of Proposed Rulemaking<sup>1</sup> regarding proposals to streamline and consolidate certain formal complaint procedures, including under Section 224 of the Communications Act.<sup>2</sup> As explained below, Crown Castle supports the Commission’s efforts to accelerate and clarify these Enforcement Bureau processes and procedures.

Attaching new wireline and wireless facilities to utility poles continues to be an indispensable method of delivering next-generation broadband services; these attachments will only grow in importance as industry begins deploying fifth-generation wireless (“5G”) facilities in the near term. The deployment of robust broadband networks is critical to meet the increasing demand for bandwidth and services, and to ensure that the United States maintains its position at the forefront of the technological revolution. The proliferation of broadband-enabled devices has placed an unwavering demand on ubiquitous broadband availability throughout the country, and, as the Commission has recognized, “new uses of the network – including new content,

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<sup>1</sup> *Amendment of Procedural Rules Governing Formal Complaint Proceedings Delegated to the Enforcement Bureau*, EB Docket No. 17-245, Notice of Proposed Rulemaking, 32 FCC Rcd 7155 (2017) (“NPRM”).

<sup>2</sup> 47 § U.S.C. 224; *see* 47 C.F.R. §§ 1.1401-1.1424.

applications, services, and devices – lead to increased end-user demand for broadband, which drives network improvements, which in turn lead to further innovative network uses.”<sup>3</sup> This cycle will only intensify as technology evolves over time. Therefore, it is critical that the Commission adopt rules that foster the deployment of next-generation broadband networks that can meet the intensifying demand for bandwidth and services. In particular, having a meaningful forum for swiftly resolving disputes over pole attachments will be vital to ensuring the rapid delivery of these services.

Crown Castle is uniquely positioned to meet the challenge to deploy the networks necessary to power a 21<sup>st</sup> century economy. Founded in 1994, Crown Castle is the country’s largest independent owner and operator of shared wireless infrastructure, with more than 40,000 towers, 50,000 small cell nodes on air or under contract, and over 60,000 miles of fiber. Crown Castle has more than 15 years of experience deploying small cell networks. Notably, Crown Castle does not hold wireless licenses, and does not itself provide personal wireless services; rather, its network offerings are exclusively wireline. Utilizing its extensive fiber networks, Crown Castle provides (among other service offerings) wholesale wireline transport services to its wireless carrier customers.<sup>4</sup>

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<sup>3</sup> *Preserving the Open Internet*, Report and Order, 25 FCC Rcd 17905, ¶ 14 (2010).

<sup>4</sup> Crown Castle entities currently hold utility certifications in 45 states, the District of Columbia, and Puerto Rico. In all of these jurisdictions, utility commissions have issued Crown Castle entities certificates or the equivalent to provide its wholesale transport services. However, the status of these service offerings has recently come into question in Texas and Pennsylvania. *See Complaint of Extenet Network Sys., Inc. Against the City of Houston for Imposition of Fees for Use of Public Right of Way*, Proposal for Decision, SOAH Docket No. 473-16-1861, PUC Docket No. 45280 (Tex. State Office of Admin. Hearings Feb. 24, 2017) (finding that unswitched point-to-point transport service to retail CMRS providers is not a wireless service); *but see Review of Issues Relating to Commission Certification of Distributed Antennae System Providers in Pennsylvania*, Motion of Robert W. Powelson, 2517831-LAW, Docket No. M-2016-2517831 (Penn. PUC Mar. 2, 2017) (finding that DAS networks should no longer be deemed utilities under Pennsylvania law because they are deemed CMRS facilities).

Indeed, although well known for its tower business, Crown Castle is also now one of the nation's largest providers of fiber optic telecommunications services.<sup>5</sup> Crown Castle uses its fiber optic networks to provide telecommunications services to myriad customers, including wireless carriers, traditional enterprise customers, educational institutions, and government entities.

As both an infrastructure provider and a telecommunications service provider, Crown Castle occupies a unique position in the deployment of broadband networks – Crown Castle is an existing attacher to poles, a new entrant, and a pole and conduit owner. Therefore, Crown Castle maintains an invaluable perspective on the Commission's proposals regarding the procedures for bringing disputes regarding pole attachment, access, rates, terms, and conditions to the Commission.

As the record in this proceeding and other relevant proceedings indicates, the FCC could greatly improve its process by adopting a 180-day shot clock for pole attachment complaints, to begin upon the filing of a complaint.<sup>6</sup> As Crown Castle previously noted, a 180-day shot clock “lends predictability to the pole attachment complaint process for attaching entities and pole

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<sup>5</sup> *Crown Castle Announces Agreement to Acquire Wilcon*, Crown Castle, News Release (Apr. 17, 2017), available at <http://investor.crowncastle.com/phoenix.zhtml?c=107530&p=irol-newsArticle&ID=2262255>; *Crown Castle Completes Acquisition of Lightower*, Crown Castle, News Release (Nov. 1, 2017), available at <http://investor.crowncastle.com/phoenix.zhtml?c=107530&p=RssLanding&cat=news&id=2313527>.

<sup>6</sup> See Comments of Verizon, EB Docket No. 17-245, at 2 (filed Oct. 26, 2017) (“Verizon Comments”); Comments of NCTA – The Internet and Television Association, EB Docket No. 17-245, at 4 (filed Oct. 26, 2017); Comments of Ameren Corporation, American Electric Power Service Corporation, Oncor Electric Delivery Company LLC, and Southern Company, EB Docket No. 17-245, at 9 (filed Oct. 26, 2017) (“Electric Utility Comments”); see also *Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment*, WC Docket No. 17-84, Notice of Proposed Rulemaking, Notice of Inquiry, and Request for Comment, 32 FCC Rcd 3266 (2017); Reply Comments of Crown Castle International Corp., WC Docket No. 17-84, at 21 (filed Jul. 17, 2017) (“Crown Castle Wireline NPRM Replies”).

owners while also affording the Commission with sufficient time to adjudicate the disputes fairly and reasonably.”<sup>7</sup> Moreover, the mere fact that parties can seek meaningful relief in a predictable timeframe may also encourage adherence to the rules in the first place and reduce the need to bring formal complaints.<sup>8</sup>

Although Crown Castle supports a 180-day shot clock for all pole attachment related complaints – not just access complaints – the Commission should prioritize the speed with which it resolves access complaints, in particular. Indeed, in the case of complaints alleging denial of access to poles, the Commission should aspire to resolve the complaint within 30 days after the close of pleadings.

Under the Commission’s long-standing Rules, the burden is on the pole owner to demonstrate how its denial is justified based on capacity, safety, reliability, or engineering concerns. In its 2011 Pole Attachment Order,<sup>9</sup> the Commission stated that “if an electric utility rejects a request for attachment of any piece of equipment, it must explain the reasons for such rejection—and how such reasons relate to capacity, safety, reliability, or engineering concerns [citing 47 USC § 224(f)(2)]—in a way that is specific with regard to both the type of facility and the type of pole.”<sup>10</sup> Accordingly, the issues in an access complaint should be clear and reasonably well developed by the time the complaint is filed. Access denials often can be resolved with purely legal rulings which require less record development. For example, denial of access for all equipment or a particular type of equipment leads to significant delays as networks

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<sup>7</sup> Crown Castle Wireline NPRM Replies at 21.

<sup>8</sup> See Verizon Comments at 2.

<sup>9</sup> *Implementation of Section 224 of the Act; A National Broadband Plan for Our Future*, WC Docket No. 07-245, GN Docket No. 09-51, Report and Order and Order on Reconsideration, 26 FCC Rcd 5240 (2011), *aff’d sub nom. American Elec. Power Serv. Corp. v. FCC*, 708 F.3d 183 (D.C. Cir. 2013), *cert. denied*, 134 S. Ct. 118 (2013) (“2011 Pole Attachment Order”).

<sup>10</sup> 2011 Pole Attachment Order ¶ 8.

are re-engineered to attempt to address the restrictions imposed. Complaints regarding such blanket bans should be resolved quickly through enforcement of the Commission's well-established rules.

Similarly, the FCC should adopt its proposal to extend the Accelerated Docket option to Section 224 complaints to be used in situations where exigency demands rapid resolution.<sup>11</sup> Taken together, these process improvements will encourage the prompt rollout of next-generation broadband services.

Crown Castle appreciates the opportunity to comment on these important issues and thanks the Commission for continuing to explore ways to streamline the broadband deployment process.

Respectfully submitted,

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<sup>11</sup> See NPRM ¶ 18.